



## United States Patent And Trademark Office

Application No. : 09/834,171

Title : ELECTRONIC SECURITIES MARKETPLACE HAVING  
INTEGRATION WITH ORDER MANAGEMENT  
SYSTEMS

Applicant(s) : Seth I. Merrin, et al.

Filed : April 12, 2001

TC/AU : 3624

Examiner : Kyle, Charles R.

Docket No. : 363779/0002

Commissioner for Patents  
P.O. Box 1450  
Alexandria VA 22313-1450

### DECLARATION OF ERIC LEGOFF

I, Eric LeGoff, declare the following under penalty of perjury:

1. I currently hold the position of Chief Operating Officer with Liquidnet, Inc. (“Liquidnet”). In my position of Chief Operating Officer, I am familiar with Liquidnet’s commercial system, which includes the Liquidnet electronic trading marketplace, as well as the marketing and commercial success of the Liquidnet system.

2. I am also familiar with Liquidnet’s U.S. Patent Application Serial No. 09/834,171 (the “Application”), including the currently pending claims 1-47. I believe the Liquidnet system is covered by at least claims 1, 9, 23, 31, 38 and 42 – 45 (the “Claims”). In this regard, the Liquidnet electronic marketplace provides liquidity in the form of non-binding indications of

interests by reading records in trading firms' order management systems (OMSs) and deriving non-binding indications of interest from the records in the OMSs.

3. Liquidnet began operations on April 11, 2001. Since that day, Liquidnet has looked at the total number of shares executed through the Liquidnet system as a way to gauge growth, progress and business success. The statistic that is often used as an industry standard for measuring growth of a trading system such as Liquidnet's is average daily volume ("ADV"), which represents the average number of shares traded through the system daily.

4. From the third quarter of 2001 through the end of the second quarter of 2004, Liquidnet's ADV average growth rate has been nearly 20% quarter-over-quarter. This growth has been even more accelerated in the present year, with an average growth rate of 27% quarter-over-quarter. A more significant analysis occurs when Liquidnet's growth is contrasted to the growth of other players in the industry – specifically ITG's POSIT system, Instinet, the New York Stock Exchange and NASDAQ. On average, these four competitors have seen an average growth rate of only 1.8% quarter-over-quarter, as reported on the following public websites:  
[www.nysedata.com](http://www.nysedata.com); [www.itginc.com/products/posit](http://www.itginc.com/products/posit); [www.inetats.com](http://www.inetats.com);  
[www.marketdata.nasdaq.com](http://www.marketdata.nasdaq.com).

5. As of June 2002, from its launch in April 2001, the Liquidnet system grew more than 160 percent and consisted of 153 of the largest buy-side institutions, which collectively managed more than \$4.3 trillion in equity assets. These measures of growth were made public in a June 3, 2002, PR Newswire press release with the headline "Fastest-Launching ATS Takes 100th Buy-Side Institution Live; Liquidnet Member Base Represents 53% of All U.S. Equities Under Management."

6. Liquidnet's success continues to draw an increasing number of customers. To date, Liquidnet's institutional customer base (known as Liquidnet "Member firms") includes fifty of the top one hundred institutional asset managers in the United States (as determined by total assets under management). Total assets represented by Liquidnet U.S.-based Member firms is nearly \$4.8 trillion. This represents more than 68% of the total assets invested by in the United States by an estimated ninety-five million Americans.

I hereby declare that all statements made herein of my own knowledge are true and that all statements made on information and belief are believed to be true; and further that these statements were made with the knowledge that willful false statements and the like so made are punishable by fine or imprisonment, or both, under Section 1001 of Title 18 of the United States Code and that such willful false statements may jeopardize the validity of the application for any patent issued therefrom.

By: Eric LeGoff

Name: Eric LeGoff

Title: Chief Operating Officer, Liquidnet, Inc.

Date: 10/27/04